

CALIFORNIA HEALTH AND SAFETY CODE

CHAPTER 6.95

ARTICLE 2. Hazardous Materials Management [25531 - 25543.3]

(Article 2 added by Stats. 1986, Ch. 1260, first Sec. 3.)

25531.

(a) The Legislature finds and declares that a significant number of chemical manufacturing and processing facilities generate, store, treat, handle, refine, process, and transport hazardous materials. The Legislature further finds and declares that, because of the nature and volume of chemicals handled at these facilities, some of those operations may represent a threat to public health and safety if chemicals are accidentally released.

(b) The Legislature recognizes that the potential for explosions, fires, or releases of toxic chemicals into the environment exists. The protection of the public from uncontrolled releases or explosions of hazardous materials is of statewide concern.

(c) There is an increasing capacity to both minimize and respond to releases of toxic air contaminants and hazardous materials once they occur, and to formulate efficient plans to evacuate citizens if these discharges or releases cannot be contained. However, programs designed to prevent these accidents are the most effective way to protect the community health and safety and the environment. These programs should anticipate the circumstances that could result in their occurrence and require the taking of necessary precautionary and preemptive actions, consistent with the nature of the hazardous materials handled by the facility and the surrounding environment.

(d) As required by Clean Air Act amendments enacted in 1990 (P.L. 101-549), the Environmental Protection Agency has developed a program for the prevention of accidental releases of regulated substances. In developing the program, the Environmental Protection Agency thoroughly reviewed a wide variety of chemical and hazardous substances to identify substances that might pose a risk to public health or safety or to the environment in the event of an accidental release. The Environmental Protection Agency developed a program to prevent accidental releases of those substances determined to potentially pose the greatest risk of immediate harm to the public and the environment. The federal program provides no options for implementing agencies to diminish the requirements or applicability of the federal program.

(e) In light of this new federal program, the Legislature finds and declares that the goals of reducing regulated substances accident risks and eliminating duplication of regulatory programs can best be accomplished by implementing the federal risk management program in the state, with certain amendments that are specific to the state. Therefore, it is the intent of the Legislature that the state seek and receive delegation of the federal program for prevention of accidental releases of regulated substances established pursuant to Section 112(r) of the federal Clean Air Act (42 U.S.C. Section 7412(r)), by implementing the federal program as promulgated by the Environmental Protection Agency, with certain amendments that are specific to the state.

(Amended by Stats. 1996, Ch. 715, Sec. 2. Effective January 1, 1997.)

25531.1.

The Legislature finds and declares that the public has a right to know about acutely hazardous materials accident risks that may affect their health and safety, and that this right includes full and timely access to hazard assessment information, including offsite consequence analysis for the most likely hazards, which identifies the offsite area which may be required to take protective action in the event of an acutely hazardous materials release.

The Legislature further finds and declares that the public has a right to participate in decisions about risk reduction options and measures to be taken to reduce the risk or severity of acutely hazardous materials accidents.

(Added by Stats. 1991, Ch. 816, Sec. 1.)

25531.2.

(a) The Legislature finds and declares that as the state implements the federal accidental release prevention program pursuant to this article, the Office of Emergency Services will play a vital and increased role in preventing accidental releases of extremely hazardous substances. The Legislature further finds and declares that as an element of the unified program established pursuant to Chapter 6.11 (commencing with Section 25404), a single fee system surcharge mechanism is established by Section 25404.5 to cover the costs incurred by the office pursuant to this article. It is the intent of the Legislature that this existing authority, together with any federal assistance that may become available to implement the accidental release program, be used to fully fund the activities of the office necessary to implement this article.

(b) The office shall use any federal assistance received to implement Chapter 6.11 (commencing with Section 25404) to offset any fees or charges levied to cover the costs incurred by the office pursuant to this article.

(Amended by Stats. 2013, Ch. 352, Sec. 368. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

25532.

Unless the context indicates otherwise, the following definitions govern the construction of this article:

(a) "Accidental release" means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

(b) "Administering agency" means a unified program agency as defined in Section 25501.

(c) "Covered process" means a process that has a regulated substance present in more than a threshold quantity.

(d) "Modified stationary source" means an addition or change to a stationary source that qualifies as a "major change," as defined in Subpart A (commencing with Section 68.1) of Part 68 of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations. "Modified stationary source" does not include an increase in production up to the source's existing operational capacity or an increase in production level, up to the production levels authorized in a permit granted pursuant to Section 42300.

(e) "Office" or "agency" means the Office of Emergency Services.

(f) "Person" means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation, including, but not limited to, a government corporation. "Person" also includes any city, county, city and county, district, commission, the state or any department, agency or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

(g) "Process" means any activity involving a regulated substance, including any use, storage, manufacturing, handling, or onsite movement of the regulated substance or any combination of these activities. For the purposes of this definition, any group of vessels that are

interconnected, or separate vessels that are located so that a regulated substance could be involved in a potential release, shall be considered a single process.

(h) "Qualified person" means a person who is qualified to attest, at a minimum, to the completeness of an RMP.

(i) "Regulated substance" means any substance that is either of the following:

(1) A regulated substance listed in Section 68.130 of Title 40 of the Code of Federal Regulations pursuant to paragraph (3) of subsection (r) of Section 112 of the Clean Air Act (42 U.S.C. Sec. 7412(r)(3)).

(2) (A) An extremely hazardous substance listed in Appendix A of Part 355 (commencing with Section 355.10) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations that is any of the following:

(i) A gas at standard temperature and pressure.

(ii) A liquid with a vapor pressure at standard temperature and pressure equal to or greater than 10 millimeters mercury.

(iii) A solid that is one of the following:

(I) In solution or in molten form.

(II) In powder form with a particle size less than 100 microns.

(III) Reactive with a National Fire Protection Association rating of 2, 3, or 4.

(iv) A substance that the office determines may pose a regulated substances accident risk pursuant to subclause (II) of clause (i) of subparagraph (B) or pursuant to Section 25543.3.

(B) (i) On or before June 30, 1997, the office shall, in consultation with the Office of Environmental Health Hazard Assessment, determine which of the extremely hazardous substances listed in Appendix A of Part 355 (commencing with Section 355.10) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations do either of the following:

(I) Meet one or more of the criteria specified in clauses (i), (ii), or (iii) of subparagraph (A).

(II) May pose a regulated substances accident risk, in consideration of the factors specified in subdivision (g) of Section 25543.1, and, therefore, should remain on the list of regulated substances until completion of the review conducted pursuant to subdivision (a) of Section 25543.3.

(ii) The office shall adopt, by regulation, a list of the extremely hazardous substances identified pursuant to clause (i). Extremely hazardous substances placed on the list are regulated substances for the purposes of this article. Until the list is adopted, the administering agency shall determine which extremely hazardous substances should remain on the list of regulated substances pursuant to the standards specified in clause (i).

(j) "Regulated substances accident risk" means a potential for the accidental release of a regulated substance into the environment that could produce a significant likelihood that persons exposed may suffer acute health effects resulting in significant injury or death.

(k) "RMP" means the risk management plan required under Part 68 (commencing with Section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations and by this article.

(l) "State threshold quantity" means the quantity of a regulated substance described in subparagraph (A) of paragraph (2) of subdivision (g), as adopted by the office pursuant to Section 25543.1 or 25543.3. Until the office adopts a state threshold quantity for a regulated substance, the state threshold quantity shall be the threshold planning quantity for the regulated substance specified in Appendix A of Part 355 (commencing with Section 355.10) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations.

(m) "Stationary source" means any stationary source, as defined in Section 68.3 of Title 40 of the Code of Federal Regulations.

(n) "Threshold quantity" means the quantity of a regulated substance that is determined to be present at a stationary source in the manner specified in Section 68.115 of Title 40 of the Code of Federal Regulations and that is the lesser of either of the following:

- (1) The threshold quantity for the regulated substance specified in Section 68.130 of Title 40 of the Code of Federal Regulations.
- (2) The state threshold quantity.

(Amended by Stats. 2013, Ch. 419, Sec. 4. Effective January 1, 2014.)

25533.

(a) The program for prevention of accidental releases of regulated substances adopted by the Environmental Protection Agency pursuant to subsection (r) of Section 112 of the Clean Air Act (42 U.S.C. Section 7412(r)), with the additional provisions specified in this article, is the accidental release prevention program for the state. The program shall be implemented by the office and the appropriate administering agency in each city or county. The state's implementation of the federal program adopted by the Environmental Protection Agency is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Notwithstanding this article or Division 26 (commencing with Section 39000), the accidental release prevention program submitted by the office to the Environmental Protection Agency to receive delegation of federal authority to implement the federal program shall include only those regulated substances and threshold quantities specified in the regulations adopted by the Environmental Protection Agency.

(b) The office and the administering agency shall, to the maximum extent feasible, coordinate implementation of the accidental release prevention program with the federal Chemical Safety and Hazard Investigation Board, the Emergency Response Commission and local emergency planning committees, the unified program elements specified in subdivision (c) of Section 25404, the permitting programs implemented by the air quality management districts and air pollution control districts pursuant to Title V of the Clean Air Act (42 U.S.C. Section 7661 et seq.), and with other agencies, as specified in Section 25404.2.

(c) Section 39602 does not apply to the accidental release prevention program promulgated and implemented pursuant to subsection (r) of Section 112 of the Clean Air Act (42 U.S.C. Section 7412(r)).

(d) The administering agency in each jurisdiction is the agency designated to implement and enforce any requirements specified by the Environmental Protection Agency and pertaining to any of the following:

- (1) Verification of stationary source registration and submission of an RMP or revised RMP.
- (2) Verification of source submission of stationary certifications or compliance schedules.
- (3) Mechanisms for ensuring that stationary sources permitted pursuant to Title V of the federal Clean Air Act (42 U.S.C. Section 7661 et seq.) are in compliance with the requirements of this article.

(e) Notwithstanding subdivision (d) and paragraph (2) of subdivision (a) of Section 25404.1, if, after a public hearing, the office determines that an administering agency is not taking reasonable actions to enforce the statutory provisions and regulations pertaining to accidental releases of regulated substances, the office may exercise any of the powers of that administering agency as necessary to implement this article.

(f) Notwithstanding any other provision of law, at any time there is no local agency certified to implement in a city or unincorporated portion of a county the unified program established pursuant to Chapter 6.11 (commencing with Section 25404), the office shall do one of the following:

(1) Authorize the administering agency which implemented this article in the city or county as of December 31, 1993, to continue to implement this article until such time as a local agency is certified to implement the unified program.

(2) Assume authority and responsibility to implement this article in that city or county until a local agency is certified to implement the unified program, in which case all references in this article to the administering agency shall be deemed to refer to the office.

(Repealed and added by Stats. 1996, Ch. 715, Sec. 7. Effective January 1, 1997.)

25534.

(a) For any stationary source with one or more covered processes, the administering agency shall make a preliminary determination as to whether there is a significant likelihood that the use of regulated substances by a stationary source may pose a regulated substances accident risk.

(b) (1) If the administering agency determines that there is a significant likelihood of a regulated substances accident risk pursuant to this subdivision, it shall require the stationary source to prepare and submit an RMP, or may reclassify the covered process from program 2 to program 3, as specified in Part 68 (commencing with Section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations.

(2) If the administering agency determines that there is not a significant likelihood of a regulated substances accident risk pursuant to this subdivision, it may do either of the following:

(A) Require the preparation and submission of an RMP, but need not do so if it determines that the likelihood of a regulated substances accident risk is remote, unless otherwise required by federal law.

(B) Reclassify a covered process from program 3 to program 2 or from program 2 to program 1, as specified in Part 68 (commencing with Section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations, unless the classification of the covered process is specified in those regulations.

(3) If the administering agency determines that an economic poison, as defined in Section 12753 of the Food and Agricultural Code, used on a farm or nursery may pose a regulated substances accident risk pursuant to this article, the administering agency shall first consult with the Department of Food and Agriculture or the county agricultural commissioner to evaluate whether the current RMP is adequate in relation to the regulated substances accident risk. This paragraph does not limit the authority of an administering agency to conduct its duties under this article, or prohibit the exercise of that authority.

(c) The requirements of this section apply to a stationary source that is not otherwise required to submit an RMP pursuant to Part 68 (commencing with Section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations.

(Amended by Stats. 1997, Ch. 17, Sec. 74. Effective January 1, 1998.)

25534.05.

(a) The office, in consultation with the administering agencies, industry, the public, and other interested parties, shall adopt regulations, initially as emergency regulations, for all of the following activities:

(1) The registration of stationary sources subject to this article.

(2) The receipt, review, revision, and audit of RMPs.

- (3) The resolution of disagreements between stationary source operators and administering agencies.
 - (4) Providing for the public availability of RMPs, consistent with subsection (c) of Section 114 of the federal Clean Air Act (42 U.S.C. Section 7414(c)).
 - (5) The provision of technical assistance to stationary sources subject to the accidental release prevention program.
 - (b) The regulations shall also require each stationary source to work closely with the administering agency in deciding which process hazard review technique is best suited for each stationary source's covered processes.
 - (c) The regulations shall provide that the process hazard analysis shall include the consideration of external events, including seismic events, if applicable.
 - (d) The regulations shall also require each stationary source to work closely with the administering agency in determining for each RMP an appropriate level of detail for the document elements specified in Section 68.150(a) of Title 40 of the Code of Federal Regulations and for documentation of the external events analysis.
 - (e) Administering agencies shall implement the regulations adopted pursuant to this section.
- (Added by Stats. 1996, Ch. 715, Sec. 9. Effective January 1, 1997.)*

25534.06.

- (a) A city or county that adopts, amends, or repeals an ordinance related to the regulation of regulated substances pursuant to this article shall do so at a public meeting for which notice has been given in a newspaper of general circulation that is published and circulated in the affected city or county, and the city or county shall state in the ordinance the reasons for adopting, amending, or repealing the ordinance.
 - (b) A city or county required to provide notice pursuant to subdivision (a) may, in addition to publishing the notice in a newspaper of general circulation, submit the notice to the California Environmental Protection Agency, which shall post that notice on the Internet at a location established for notices that may be posted pursuant to this subdivision.
 - (c) A city or county required to provide notice pursuant to subdivision (a) may also submit the full text of the ordinance and a summary of any violations of the ordinance to the California Environmental Protection Agency, which shall post the full text of the ordinance and the summary of any violations of the ordinance, or a link to the full text of the ordinance and the summary of any violations of the ordinance, on the agency's Internet website.
 - (d) The California Environmental Protection Agency shall not implement subdivision (b) or (c) until July 1, 2001, unless otherwise authorized to do so on an earlier date, in accordance with a process for considering exemptions established by the Year 2000 Executive Committee, pursuant to Executive Order D-3-99.
- (Amended by Stats. 2000, Ch. 294, Sec. 1. Effective January 1, 2001.)*

25534.1.

Each RMP required to be prepared pursuant to this article shall give consideration to the proximity of the facility or proposed facility to populations located in schools, residential areas, general acute care hospitals, long-term health care facilities, and child day care facilities. For purposes of this section, "general acute care hospital" has the meaning provided by subdivision (a) of Section 1250, "long-term health care facility" has the meaning provided by subdivision (a) of Section 1418, and "child day care facility" has the meaning provided by Section

1596.750. "School" means any school used for the purpose of the education of more than 12 children in kindergarten or any grades 1 to 12, inclusive.
(Amended by Stats. 1996, Ch. 715, Sec. 10. Effective January 1, 1997.)

25534.2.

Any new or modified stationary source which is required to prepare an RMP pursuant to this article shall be subject to the requirements of Section 65850.2 of the Government Code.
(Repealed and added by Stats. 1996, Ch. 715, Sec. 12. Effective January 1, 1997.)

25534.5.

The administering agency with jurisdiction over a stationary source or facility may have access to inspect the stationary source and review all technical and other information in the stationary source's possession which is reasonably necessary to allow the administering agency to make a determination regarding the stationary source's compliance with this article. Upon request of the administering agency, the stationary source shall provide to the administering agency information regarding the stationary source's compliance with this article.
(Repealed and added by Stats. 1996, Ch. 715, Sec. 14. Effective January 1, 1997.)

25535.

(a) An owner or operator of a stationary source submitting an RMP pursuant to this article shall submit the RMP to the administering agency after the RMP is certified as complete by a qualified person and the stationary source owner or operator. The administering agency shall review the RMP and may authorize the air pollution control district or air quality management district in which the stationary source is located to conduct a technical review of the RMP. If, after review by the administering agency and technical review, if any, by the air pollution control district or air quality management district, the administering agency determines that the stationary source's RMP is deficient in any way, the administering agency shall notify the stationary source of these defects. The stationary source shall submit a corrected RMP within 60 days of the notification of defects, unless granted a one-time extension of no more than 30 days, of the notice to correct the RMP by the administering agency. Failure to fully comply with this notice or the unified program of this section shall be deemed a violation of this article for purposes of Section 25540.

(b) Upon implementation of an RMP, the stationary source shall notify the administering agency that the RMP has been implemented and shall summarize the steps taken in preparation and implementation of the RMP.

(c) The stationary source shall continue to carry out the program and activities specified in the RMP at the stationary source after the administering agency has been notified pursuant to subdivision (b).

(d) The owner or operator of the stationary source shall implement all programs and activities in the RMP before operations commence, in the case of a new stationary source, or before any new activities involving regulated substances are taken, in the case of a modified stationary source.

(Amended by Stats. 1996, Ch. 715, Sec. 15. Effective January 1, 1997.)

25535.1.

(a) Except as otherwise provided in this article, an owner or operator of a stationary source shall prepare an RMP if an RMP is required pursuant to Part 68 (commencing with Section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations or if the administering agency makes a determination pursuant to Section 25534 that an RMP is required.

(b) An owner or operator of a stationary source required to prepare an RMP pursuant to this article shall submit the RMP to the Environmental Protection Agency and to the administering agency.

(c) Notwithstanding subdivision (b), if an RMP is required only because the administering agency has determined, pursuant to Section 25534, that an RMP is required, the RMP shall be submitted only to the administering agency.

(Added by Stats. 1996, Ch. 715, Sec. 16. Effective January 1, 1997.)

25535.2.

Within 15 days after the administering agency determines that an RMP is complete, the unified program agency shall make the RMP available to the public for review and comment for a period of at least 45 days. A notice briefly describing and stating that the RMP is available for public review at a certain location shall be placed in a daily local newspaper or placed on an administering agency's Internet Web site, and mailed to interested persons and organizations. The administering agency shall review the RMP, and any comments received, following the regulations adopted pursuant to subdivision (a) of Section 25534.05.

(Amended by Stats. 2013, Ch. 419, Sec. 5. Effective January 1, 2014.)

25535.5.

Any fee imposed on any stationary source to cover the administering agency's cost of implementing the accidental release prevention program pursuant to this article shall be imposed only through the single fee system established pursuant to Section 25404.5.

(Added by Stats. 1996, Ch. 715, Sec. 19. Effective January 1, 1997.)

25536.

(a) A person or a stationary source with one or more covered processes shall comply with the requirements of this article no later than the latest date specified in Subpart A (commencing with Section 68.1) of Part 68 of Subchapter C of Chapter 7 of Title 40 of the Code of Federal Regulations.

(b) If the administering agency makes a determination pursuant to Section 25534 that a person or stationary source is required to prepare and submit an RMP, the person or stationary source shall submit the RMP in accordance with a schedule established by the administering agency after consultation with the stationary source. The administering agency shall not require an RMP to be submitted earlier than 12 months or later than three years after the owner or operator has received a notice of that determination from the administering agency.

(Amended by Stats. 2013, Ch. 419, Sec. 6. Effective January 1, 2014.)

25536.5.

(a) A person or a stationary source that was required to prepare, submit, and implement a risk management and prevention program pursuant to this article as it read on December 31, 1996, and which is required to prepare and submit an RMP pursuant to this article, shall continue to implement the risk management and prevention program until the business has submitted an RMP as specified in this article.

(b) A person or a stationary source that was required to prepare, submit, and implement a risk management and prevention program pursuant to this article as it read on December 31, 1996, and which is not required to prepare an RMP pursuant to this article is required to comply only with those requirements of this chapter that apply to the business.

(c) A person or a stationary source that was not required to prepare, submit, and implement a risk management and prevention program pursuant to this article as it read on December 31, 1996, but which is required to prepare and submit an RMP pursuant to this article, shall submit and implement an RMP not later than the deadlines specified in Subpart A (commencing with Section 68.1) of Part 68 of Subchapter C of Chapter 7 of Title 40 of the Code of Federal Regulations.

(Amended by Stats. 2013, Ch. 419, Sec. 7. Effective January 1, 2014.)

25536.7.

(a) (1) An owner or operator of a stationary source that is engaged in activities described in Code 324110 or 325110 of the North American Industry Classification System (NAICS), as that code read on January 1, 2014, and with one or more covered processes that is required to prepare and submit an RMP pursuant to this article, when contracting for the performance of construction, alteration, demolition, installation, repair, or maintenance work at the stationary source, shall require that its contractors and any subcontractors use a skilled and trained workforce to perform all onsite work within an apprenticeable occupation in the building and construction trades. This section shall not apply to oil and gas extraction operations.

(2) The Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations may approve a curriculum of in-person classroom and laboratory instruction for approved advanced safety training for workers at high hazard facilities. That safety training may be provided by an apprenticeship program approved by the chief or by instruction provided by the Chancellor of the California Community Colleges. The chief shall approve a curriculum in accordance with this paragraph by January 1, 2016, and shall periodically revise the curriculum to reflect current best practices. Upon receipt of certification from the apprenticeship program or community college, the chief shall issue a certificate to a worker who completes the approved curriculum.

(3) For purposes of paragraph (2) of subdivision (b) of Section 3075 of the Labor Code, a stationary source covered by this section shall be considered in determining whether existing apprenticeship programs do not have the capacity, or have neglected or refused, to dispatch sufficient apprentices to qualified employers who are willing to abide by the applicable apprenticeship standards.

(4) This section shall not apply to contracts awarded before January 1, 2014, unless the contract is extended or renewed after that date.

(5) (A) This section shall not apply to the employees of the owner or operator of the stationary source or prevent the owner or operator of the stationary source from using its own employees to perform any work that has not been assigned to contractors while the employees of the contractor are present and working.

- (B) An apprenticeship program approved by the chief may enroll, with advanced standing, applicants with relevant prior work experience at a stationary source that is subject to this section, in accordance with the approved apprenticeship standards of the program.
- (6) The criteria of subparagraph (A) of paragraph (9) of subdivision (b), subparagraph (C) of paragraph (9) of subdivision (b), and subparagraph (B) of paragraph (10) of subdivision (b) shall not apply to either of the following:
- (A) To the extent that the contractor has requested qualified workers from the local hiring halls that dispatch workers in the apprenticeable occupation and, due to workforce shortages, the contractor is unable to obtain sufficient qualified workers within 48 hours of the request, Saturdays, Sundays, and holidays excepted. This section shall not prevent contractors from obtaining workers from any source.
- (B) To the extent that compliance is impracticable because an emergency requires immediate action to prevent harm to public health or safety or to the environment, but the criteria shall apply as soon as the emergency is over or it becomes practicable for contractors to obtain a qualified workforce.
- (7) The requirement specified in paragraph (1) for a skilled and trained workforce, as defined in paragraph (10) of subdivision (b), shall apply to each individual contractor's and subcontractor's onsite workforce.
- (8) This section does not make the construction, alteration, demolition, installation, repair, or maintenance work at a stationary source that is subject to this section a public work, within the meaning of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.
- (b) As used in this section:
- (1) "Apprenticeable occupation" means an occupation for which the chief has approved an apprenticeship program pursuant to Section 3075 of the Labor Code.
- (2) "Approved advanced safety training for workers at high hazard facilities" means a curriculum approved by the chief pursuant to paragraph (2) of subdivision (a).
- (3) "Building and construction trades" has the same meaning as in Section 3075.5 of the Labor Code.
- (4) "Chief" means the Chief of the Division of the Apprenticeship Standards of the Department of Industrial Relations.
- (5) "Construction," "alteration," "demolition," "installation," "repair," and "maintenance" have the same meanings as in Sections 1720 and 1771 of the Labor Code.
- (6) "Onsite work" shall not include catalyst handling and loading, chemical cleaning, or inspection and testing that was not within the scope of a prevailing wage determination issued by the Director of Industrial Relations as of January 1, 2013.
- (7) "Prevailing hourly wage rate" means the general prevailing rate of per diem wages, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, but does not include shift differentials, travel and subsistence, or holiday pay. Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker.
- (8) "Registered apprentice" means an apprentice registered in an apprenticeship program approved by the chief pursuant to Section 3075 of the Labor Code who is performing work covered by the standards of that apprenticeship program and receiving the supervision required by the standards of that apprenticeship program.
- (9) "Skilled journeyman" means a worker who meets all of the following criteria:
- (A) The worker either graduated from an apprenticeship program for the applicable occupation that was approved by the chief, or has at least as many hours of on-the-job experience in the

applicable occupation that would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the chief.

(B) The worker is being paid at least a rate equivalent to the prevailing hourly wage rate for a journey person in the applicable occupation and geographic area.

(C) The worker has completed within the prior two calendar years at least 20 hours of approved advanced safety training for workers at high hazard facilities. This requirement applies only to work performed on or after January 1, 2018.

(10) "Skilled and trained workforce" means a workforce that meets both of the following criteria:

(A) All the workers are either registered apprentices or skilled journey persons.

(B) (i) As of January 1, 2014, at least 30 percent of the skilled journey persons are graduates of an apprenticeship program for the applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(ii) As of January 1, 2015, at least 45 percent of the skilled journey persons are graduates of an apprenticeship program for the applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(iii) As of January 1, 2016, at least 60 percent of the skilled journey persons are graduates of an apprenticeship program for the applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(Added by Stats. 2013, Ch. 795, Sec. 2. Effective January 1, 2014.)

25537.

(a) The administering agency shall inspect every stationary source required to be registered pursuant to this article at least once every three years to determine whether the stationary source is in compliance with this article.

The requirements of this section do not alter or affect the immunity provided a public entity pursuant to Section 818.6 of the Government Code.

(b) Subdivision (a) shall not be construed to affect the exemption from audit requirements established pursuant to Section 68.220(c) of Title 40 of the Code of Federal Regulations.

(Amended by Stats. 1996, Ch. 715, Sec. 23. Effective January 1, 1997.)

25537.5.

(a) Where a stationary source has one or more covered processes, and is subject to the requirements of Article 1 (commencing with Section 25500) for the same substance, compliance with this article shall be deemed compliance with Article 1 (commencing with Section 25500) for that substance, to the extent not inconsistent with federal law and with Article 1 (commencing with Section 25500).

(b) Any stationary source which relies on subdivision (a) for compliance with the applicable requirements of Article 1 (commencing with Section 25500) shall annually submit to the administering agency a statement that the stationary source has made no changes required to

be reported pursuant to Article 1 (commencing with Section 25500), or identifying all reportable changes.

(Added by Stats. 1996, Ch. 715, Sec. 24. Effective January 1, 1997.)

25538.

(a) If a stationary source believes that any information required to be reported, submitted, or otherwise provided to the administering agency pursuant to this article involves the release of a trade secret, the stationary source shall provide the information to the administering agency and shall notify the administering agency in writing of that belief. Upon receipt of a claim of trade secret related to an RMP, the administering agency shall review the claim and shall segregate properly substantiated trade secret information from information that shall be made available to the public upon request in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250), Division 7, Title 1, Government Code). As used in this section, "trade secret" has the same meaning as in subdivision (d) of Section 6254.7 of the Government Code and Section 1060 of the Evidence Code.

(b) Except as otherwise specified in this section, the administering agency may not disclose any properly substantiated trade secret that is so designated by the owner or operator of a stationary source.

(c) The administering agency may disclose trade secrets received by the administering agency pursuant to this article to authorized officers or employees of other governmental agencies only in connection with the official duties of that officer or employee pursuant to any law for the protection of health and safety.

(d) Any officer or employee or former officer or employee of the administering agency or any other government agency who, because of that employment or official position, has possession of or access to information designated as a trade secret pursuant to this section shall not knowingly and willfully disclose the information in any manner to any person not authorized to receive the information pursuant to this section. Notwithstanding Section 25515, any person who violates this subdivision, and who knows that disclosure of this information to the general public is prohibited by the section, shall, upon conviction, be punished by imprisonment in the county jail for not more than six months or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

(e) Any information prohibited from disclosure pursuant to any federal statute or regulation shall not be disclosed.

(f) This section does not authorize any stationary source to refuse to disclose to the administering agency any information required pursuant to this article.

(g) (1) Upon receipt of a request for the release of information to the public that includes information that the stationary source has notified the administering agency is a trade secret pursuant to subdivision (a), the administering agency shall notify the stationary source in writing of the request by certified mail, return receipt requested. The owner or operator of the stationary source shall have 30 days from receipt of the notification to provide the administering agency with any materials or information intended to supplement the information submitted pursuant to subdivision (a) and needed to substantiate the claim of trade secret. The administering agency shall review the claim of trade secret and shall determine whether the claim is properly substantiated.

(2) The administering agency shall inform the stationary source in writing, by certified mail, return receipt requested, of any determination by the administering agency that some, or all, of a claim of trade secret has not been substantiated. Not earlier than 30 days after the receipt by a stationary source of notice of the determination, the administering agency shall release the information to the public, unless, prior to the expiration of the 30-day period, the

stationary source files an action in an appropriate court for a declaratory judgment that the information is subject to protection under subdivision (b) or for an injunction prohibiting disclosure of the information to the public, and promptly notifies the administering agency of that action.

(Amended by Stats. 1997, Ch. 17, Sec. 75. Effective January 1, 1998.)

25539.

The office and each administering agency, in implementing this article, shall, upon request, involve and cooperate with local and state government officials, emergency planning committees, and professional associations.

(Amended by Stats. 1996, Ch. 715, Sec. 26. Effective January 1, 1997.)

25540.

(a) Any person or stationary source that violates this article shall be civilly or administratively liable to the unified program agency in an amount of not more than two thousand dollars (\$2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the person or stationary source shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

(b) Any person or stationary source that knowingly violates this article after reasonable notice of the violation shall be civilly or administratively liable to the unified program agency in an amount not to exceed twenty-five thousand dollars (\$25,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the person or stationary source shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of any hazardous materials.

(c) When a unified program agency issues an enforcement order or assesses an administrative penalty, or both, for a violation of this article, the unified program agency shall utilize the administrative enforcement procedures, including the hearing procedures, specified in Sections 25404.1.1 and 25404.1.2.

(Amended by Stats. 2013, Ch. 419, Sec. 8. Effective January 1, 2014.)

25540.1.

A person or stationary source that knowingly violates this article after reasonable notice of the violation is guilty of a misdemeanor and may, upon conviction, be punished by imprisonment in a county jail not to exceed one year. If the violation results in, or significantly contributes to, an emergency, including a fire, the person or stationary source shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of any hazardous materials.

(Added by Stats. 2007, Ch. 623, Sec. 3. Effective January 1, 2008.)

25540.5.

Any person or stationary source who violates any rule or regulation, emission limitation, permit condition, order, fee requirement, filing requirement, duty to allow or carry out inspection or

monitoring activities, or duty to allow entry, established pursuant to this article and for which delegation or approval of implementation and enforcement authority has been obtained pursuant to subsections (l) and (r) of Section 112 of the Clean Air Act (42 U.S.C. Sections 7412(l) and 7412(r)) or the regulations adopted pursuant thereto, is strictly liable for a civil penalty not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs.

(Added by Stats. 1996, Ch. 715, Sec. 28. Effective January 1, 1997.)

25541.

Any person or stationary source who knowingly makes any false material statement, representation or certification in any record, report, or other document filed, maintained, or used for the purpose of compliance with this article, or destroys, alters, or conceals any such record, report, or other document filed, maintained, or used for the purpose of compliance with this article, shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars (\$25,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both the fine and the imprisonment.

If the conviction is for a violation committed after a first conviction under this section, the person or stationary source shall be punished by a fine of not less than two thousand dollars (\$2,000) or more than fifty thousand dollars (\$50,000) per day of violation, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for one, two, or three years or in a county jail for not more than one year, or both the fine and imprisonment. Furthermore, if the violation results in, or significantly contributes to, an emergency, including a fire, to which the county or city is required to respond, the person or stationary source shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the acutely hazardous materials.

(Amended by Stats. 2011, Ch. 15, Sec. 195. Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

25541.3.

Any person or stationary source who knowingly violates any requirement of this article, including any fee or filing requirement, for which delegation of federal implementation and enforcement authority has been obtained pursuant to subsections (l) and (r) of Section 112 of the federal Clean Air Act (42 U.S.C. Sections 7412(l) and 7412(r)), or who knowingly renders inaccurate any federally required monitoring device or method, shall, upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000) for each day of violation.

(Added by Stats. 1996, Ch. 715, Sec. 30. Effective January 1, 1997.)

25541.5.

If civil penalties are recovered pursuant to Section 25540 or 25540.5, the same offense shall not be the subject of a criminal prosecution pursuant to Section 25541 or 25541.3. When an administering agency refers a violation to a prosecuting agency and a criminal complaint is filed, any civil action brought pursuant to this article for that offense shall be dismissed.

(Added by Stats. 1996, Ch. 715, Sec. 31. Effective January 1, 1997.)

25542.

(a) It is the intent of the Legislature that for those facilities with an RMP incorporating some, or all, of the federal or state process safety management program under the Occupational Safety and Health Act of 1970 (29 U.S.C. Section 651 et seq.) and the Occupational Safety and Health Act of 1973, Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, where a violation may be penalized pursuant to this article and the process safety management program, penalties shall be imposed under only one program.

(b) It is the further intent of the Legislature that for any facility described in subdivision (a), the Division of Industrial Safety of the Department of Industrial Relations shall, to the maximum extent feasible, coordinate with the administering agency and other agencies in accordance with paragraph (4) of subdivision (a) of Section 25404.2.

(Added by Stats. 1996, Ch. 715, Sec. 32. Effective January 1, 1997.)

25543.

The office shall obtain and maintain state delegation of the federal accidental release prevention program established pursuant to subsection (r) of Section 7412 of Title 42 of the United States Code. Substances that are regulated under this article only because they are regulated substances pursuant to paragraph (2) of subdivision (g) of Section 25532 and state threshold quantities shall not be a part of the state program for which delegation of federal implementation and enforcement authority is sought pursuant to this section and subdivision (a) of Section 25533.

(Repealed and added by Stats. 1996, Ch. 715, Sec. 34. Effective January 1, 1997.)

25543.1.

(a) Any person may submit a petition to the office for the addition of a material to, or for the deletion of a material from, the regulated substances list adopted pursuant to subparagraph (B) of paragraph (2) of subdivision (g) of Section 25532 or to revise the existing state threshold quantities that are used as the standards for registration and RMP compliance.

(b) A petition submitted pursuant to subdivision (a) shall be accompanied by a submission fee, to be established by the office, in consultation with the Office of Environmental Health Hazard Assessment. The fee shall be in an amount that is sufficient to pay for the reasonable costs incurred by the office and the Office of Environmental Health Hazard Assessment necessary to carry out this section. Upon the receipt of the petition and fee, the office shall transmit to the Office of Environmental Health Hazard Assessment funds sufficient to pay for the reasonable costs incurred by the Office of Environmental Health Hazard Assessment to carry out this section.

(c) An owner or operator of a stationary source shall not delay implementation of this article in anticipation of a ruling on a petition to delist a regulated substance or to change a state threshold quantity.

(d) The office shall notify administering agencies of petitions for adding or delisting regulated substances or for changing state threshold quantities and shall take comments from administering agencies on the petitions. All comments shall be responded to in writing.

(e) The office shall notify the public of petitions for adding or delisting regulated substances or for changing state threshold quantities and shall take public comment on the petitions. All comments shall be responded to in writing.

- (f) (1) The office shall request the Office of Environmental Health Hazard Assessment to review the petitions and make recommendations to the office regarding the petitions.
- (2) Each recommendation made pursuant to paragraph (1) shall be based on current scientific knowledge and a sound and open scientific review and shall contain a finding whether a substance should be added to, or deleted from, the regulated substance list, or whether the state threshold quantity for a regulated substance should be revised.
- (g) The petition review by the Office of Environmental Health Hazard Assessment shall take into consideration all of the following factors:
- (1) The severity of any acute adverse health effect associated with an accidental release of the substance.
- (2) The likelihood of an accidental release of the substance.
- (3) The potential magnitude of human exposure to an accidental release of the substance.
- (4) The results of other preexisting evaluations of the substances potential risks which take into account the factors specified in paragraphs (1), (2), and (3), including, but not limited to, studies or research undertaken by, or on behalf of, the Environmental Protection Agency for the purpose of complying with paragraph (3) of subsection (r) of Section 112 of the Clean Air Act (42 U.S.C. Sec. 7412 (r)(3)).
- (5) The likelihood of the substance being handled in this state.
- (6) The accident history of the substance.
- (h) Upon receipt of a recommendation made pursuant to subdivision (f), the office may add or remove a substance or change an existing state threshold quantity as a requirement for this article.
- (i) In reviewing a petition under this section, the office shall consider the views of administering agencies that have indicated support or opposition to the petition.
- (Amended by Stats. 1996, Ch. 715, Sec. 35. Effective January 1, 1997.)*

25543.2.

- (a) A stationary source that intends to modify a facility which may result either in a significant increase in the amount of regulated substances handled by the facility or in a significantly increased risk in handling a regulated substance, as compared to the amount of substances and the amount of risk identified in the facility's RMP relating to the covered process proposed for modification, shall do all the following, prior to operating the modified facility:
- (1) Where reasonably possible, notify the administering agency in writing of the stationary source's intent to modify the facility at least five calendar days before implementing any modifications. As part of the notification process, the stationary source shall consult with the administering agency when determining whether the RMP should be reviewed and revised. Where prenotification is not reasonably possible, the stationary source shall provide written notice to the administering agency no later than 48 hours following the modification.
- (2) Establish procedures to manage the proposed modification, which shall be substantially similar to the procedures specified in Section 1910.119 of Title 29 of the Code of Federal Regulations pertaining to process safety management, and notify the administering agency that the procedures have been established.
- (b) The stationary source shall revise the appropriate documents, as required pursuant to subdivision (a), expeditiously, but not later than 60 days from the date of the facility modification.
- (Amended by Stats. 1996, Ch. 715, Sec. 36. Effective January 1, 1997.)*

25543.3.

On or before June 30, 1998, the office, in consultation with the Office of Environmental Health Hazard Assessment, shall do all of the following:

(a) Review each regulated substance on the list established pursuant to subparagraph (B) of paragraph (2) of subdivision (g) of Section 25532 and, taking into consideration the factors specified in subdivision (g) of Section 25543.1, determine if the regulated substance should remain subject to regulation under this article or should be deleted from that list of regulated substances.

(b) Review the state threshold quantity for each regulated substance that the office determines should remain on the list of regulated substances, and determine, taking into consideration the factors specified in subdivision (g) of Section 25543.1, if the state threshold quantity should be revised.

(c) Adopt regulations, which amend the list of regulated substances adopted pursuant to subparagraph (B) of paragraph (2) of subdivision (g) of Section 25532, and adopt state threshold quantities for regulated substances, based on the determinations of the office under subdivisions (a) and (b).

(Added by Stats. 1996, Ch. 715, Sec. 37. Effective January 1, 1997.)